DOCUMENT RESUME

ED 254 882 CS 504 865

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TITLE Politeness in Courtroom Language.
PUB DATE Feb 85
NOTE 22p.; Paper presented at the Annual Meeting of the Western Speech Communication Association (Fresno, CA, February 16-19, 1985).
PUB TYPE Reports - Research/Technical (143) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Communication Research; Communication Skills; Females; *Interpersonal Communication; *Judges; Language Patterns; *Language Research; *Language Usage; Lawyers; Males; *Sex Differences; Sex Stereotypes
IDENTIFIERS *Legal Language

ABSTRACT

The research of W. O'Barr and B. K. Atkins found that the use of "women's language" features--the use of tag questions, interrogative intonation, sex-specific vocabulary, hedges and fillers, empty adjectives, and hypercorrect grammar; the inability to tell jokes; and the tendency to use fewer expletives than men--was associated more with power and status than with the sex variable. To test this finding, a study investigated the language used by participants in legal proceedings (judges, prosecuting attorneys, defense attorneys, and plaintiffs). It was hypothesized that the language of judges, who hold the most power in a courtroom, would contain the least number of women's language features, specifically "politeness." Tape recordings from two California courtrooms were transcribed and coded. The results supported the O'Barr and Atkins finding, but not the hypothesis. It is suggested that judges, regardless of their sex, use a great deal of politeness to redress the many face-threatening acts that they must perform. The findings indicate that future research on sex differences in language usage should move from the documentation of sex differences toward an examination of underlying social and situational factors. (FL)

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POLITENESS IN COURTROOM LANGUAGE

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Presented at the 1985 Conference of the
Western Speech Communication Association
Fresno, California
February 16-19

CS 504 865

POLITENESS IN COURTROOM LANGUAGE

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The current paper represents an attempt to replicate O'Barr and Atkins' research (1981) which found that the use of "women's language" features (Lakoff, 1975) was associated more strongly with power and status variables than with the sex variable. In the present study it was hypothesized that judges hold the most power and have the highest status within the courtroom; therefore, the language of judges should contain the least number of "powerless" language features (O'Barr and Atkins). Politeness was chosen as the particular language feature to be examined. Tape recordings from courtrooms in the southern California area were transcribed and then coded for politeness, The results supported O'Barr and Atkins' claim in that sex did not appear to be the salient variable in determining use of powerless language. However, the hypothesis that judges would use the least amount of politeness was not supported. It is suggested that judges use a great deal of politeness to redress the many face-threatening acts (Brown and Levinson, 1978) that they must perform. The results of this study suggest that future research on sex differences in language usage should move from the documentation of sex differences toward an examination of underlying social and situational factors.

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This paper investigates how variables other than sex might have an impact on the way in which women and men communicate. An increasing number of researchers concerned with sex/gender differences in language argue that we must begin to spend more time looking at situational factors involved in the use of language and consider in what contexts we find or do not find sex differences. Penelope Brown (1979) states this position very clearly:

> **My dissatisfaction with much of the recent research in characteristics of women's speech stems from the fact that in general, researchers have rested content with documenting differences between the speech of men and women in some respect for some sample. I think most would agree that sex differences per se are not interesting and that what would be interesting would be to show that particular differences in language usage were attributable to social differences in the position of women and men in the society. What is notably lacking so far in all the research is a way of analyzing language usage so that the features differentiating the speech of men and women can be related in a precisely specifiable way to the social structural pressures and constraints on their behavior (p. 62).**

The present paper is an attempt to examine more closely the societal and contextual variables that can play a major role in shaping our language behavior. In particular this study was concerned with one language variable--the use of politeness features--within the context of a municipal courtroom.

The importance of politeness as a variable in linguistic analysis and

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conversation studies is demonstrated by the increased attention given to this topic, particularly within the last few years (see, for example, Brown, 1979, 1980; Brown and Levinson, 1978; Ferguson, 1976; Keenan [Ochs] 1974; Lakoff, 1973, 1974, 1975; Shimanoff, 1977). One of the most valuable contributions to the issue of politeness is the universal strategies of politeness developed by Brown and Levinson (1978). Basing their theory on Durkheim's notion of positive and negative rites (1915) and Goffman's ideas about positive and negative face (1967), Brown and Levinson developed a typology of positive and negative politeness strategies that provides a firm foundation for the investigation of politeness.

Brown and Levinson's theory of politeness use is based on the idea of a Model Person (MP) as a "wilful fluent speaker of a natural language, further endowed with two special properties--rationality and face." Negative Face, according to them, is defined as "the want of every 'competent adult member' that his actions be unimpeded by others" (p. 106), and Positive Face is "the want of every member that his wants be desirable at least to some others" (p.134). Brown and Levinson then delineate specific linguistic features associated with both positive and negative face. Positive politeness strategies are "oriented toward the positive face of the hearer, the positive self-image that he claims for himself." Positive Politeness Strategies are listed in Table 1. Negative Politeness is "oriented mainly toward partially satisfying/redressing the hearer's negative face, his basic want to maintain claims of territoriality and self-determination." Table 2 lists Negative Politeness Strategies.

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Table 1:
Positive Politeness Strategies

1. Notice/attend to the hearer;
2. Exaggerate interest/approval/sympathy with the hearer;
3. Intensify interest to the hearer;
4. Use in-group identity markers (t-pronouns, diminutives, in-group language and dialect, jargon and slang);
5. Seek agreement;
6. Avoid disagreement;
7. Presuppose/raise/assert common ground with the hearer;
8. Speaker speaks as if the hearer knows what the speaker knows;
9. Joke;
10. Assert/presuppose speaker's knowledge of and concern for hearer's wants;
11. Include both speaker and hearer in the activity.

Table 2:
Negative Politeness Strategies

1. Be conventionally indirect
2. Question/hedge
3. Be pessimistic
4. Minimize imposition
5. Give deference (speaker lowers her/himself or elevates hearer)
6. Apologize
7. Indicate reluctance
8. Impersonalize the speaker and the hearer
9. State the face-threatening act (FTA) as a general rule

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Using these specific linguistic features for positive and negative politeness it is then possible to code speech for amounts and types of politeness used by speakers. Susan Shimanoff (1977) took the coding typology developed by Brown and Levinson and modified it for the purpose of her investigation of politeness within an office context. Shimanoff first coded politeness type, meaning positive or negative politeness. She then coded the particular "politeness feature" displayed by that utterance, using Levinson's categories (see Tables 1 and 2). Each time a feature was used, it was counted as a politeness characteristic. The number of politeness characteristics was then counted, and "the data were utilized to investigate differences between males and females and to describe politeness strategies in general" (p. 215).

Another major contribution to research on the topic of politeness in language is the work of philosopher H. P. Grice. In his article "Logic and Conversation" (1975) Grice discusses the way in which conversations operate. In any speaker/hearer interaction something that he terms the Cooperative Principle is presumed to be in effect. Grice explains the Cooperative Principle in this way:

> We might then formulate a rough general principle which participants will be expected (ceteris paribus) to observe, namely: Make your conversational contribution such as is required, at the stage at which it occurs, by the accepted purpose or direction of the talk exchange in which you are engaged. One might label this the **Cooperative Principle** (p. 45).

The Cooperative Principle operates as a general guideline for conversations--the speaker and the hearer both assume cooperation on each other's parts. That is, both assume the other will do what s/he can to facilitate the flow of conversation and ensure that it will be successful.

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Grice names four specific "rules" that speakers and hearers use to accomplish the aims of the Cooperative Principle and ensure a successful conversation. These are the Maxims of Quantity (provide enough, but not too much, information); of Quality (be truthful); of Relevance; and of Perspicuity (be clear). Grice then mentions that there may be other sub-maxims that could be included as part of the Cooperative Principle, including a maxim of politeness. Grice does not discuss what specific rules such a maxim of politeness might have attached to it. But Penelope Brown (1979) picks up the discussion of a Maxim of Politeness at the point where Grice left off. Brown argues that in situations in which maxims come into conflict the Maxim of Politeness may supercede the other maxims. For example, it is a social convention that we should violate the Maxim of Quality in order to preserve the Maxim of Politeness ("How do you like my new hairstyle?"....."Oh, it's very nice.")

Much of the recent research on politeness as a language feature has concentrated more specifically on women and politeness. In our society it is commonly believed that women are more polite than men. This view is reinforced by traditional ideas about women as the keepers of the culture and the dispensers of morality, at least within the white middle class. It is women who have more frequently assumed the role of providing advice on proper behavior, Emily Post and Amy Vanderbilt being prototypical examples. But it is not clear whether women really are more polite or whether this is another manifestation of what Cheris Kramarae has dubbed "folklinguistics"--popular conceptions and stereotypes of the way people talk (1974). Much of the research on women and politeness has focused on the question of whether or not women really are more polite than men.

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Robin Lakoff's book Language and Women's Place (1975) did much to bring research on sex differences in language into greater prominence. Lakoff posits the theory that women speak a language different from "male" language. She believes that "women's language" is characterized either by the use of specific features not used by men, or by the use of linguistic features that both women and men use, but that women use to a greater extent. Among the linguistic features that Lakoff cites as typifying women's speech are the use of tag questions; the use of interrogative intonation; much less frequent use of expletives; sex-specific vocabulary (e.g. cooking and sewing terms); the use of hedges and fillers; the use of "empty adjectives" such as "divine" and "charming"; the use of the intensive "so"; hypercorrect grammar; the inability to tell jokes; and speaking in italics." Lakoff also believes that women are much more polite than men, and says that women use "superpolite forms" characterized by such features as hypercorrect grammar and little or no expletives; she says that women are "experts at euphemism [and] repositories of tact" (p. 55).

Lakoff's theories are based on her own perceptions of a limited number of people, rather than on empirical data. Although some of her claims have been substantiated by subsequent empirical research, many of her generalizations about women's language have received no additional support. It may be that she was influenced by "folklinguistic" impressions of women's speech and her observations therefore only reinforce the stereotypes. However, her work has been an important catalyst, initiating a number of studies that have taken the features that Lakoff says are part of "women's language" and tested empirically whether they were in fact part of women's speech but not of men's.

One such study that was suggested by Lakoff's work is the research

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done by O'Barr and Atkins (1980). They took as their starting point the set of features identified by Lakoff and examined the speech of male and female witnesses in the courtroom. Interestingly, they found use of the features associated with "women's language" did not correlate with sex of the witness. Instead their results indicated that the pattern and style of an individual's speech was based on social status and the amount of power s/he held. O'Barr and Atkins found that witnesses with higher social status and more relative power (for example, expert witnesses such as a criminologist or a doctor) used the features associated with women's speech much less frequently that those witnesses who were of lower social status and held less power (for example, housewives and blue collar workers), and this held true regardless of the person's sex. They suggest that what Lakoff termed "women's language" is instead more accurately described as "powerless speech." As they explain, "What has previously been referred to as 'women's language' is perhaps better thought of as a composite of features of powerless language (which can be but need not be a characteristic of the speech of either women or men) and of some other features which may be more restricted to women's domains" (p. 109).

According to these results, one would expect that in a courtroom the use of powerless language will be distributed hierarchically along a continuum, with those holding the least power using the most "powerless" language and those holding the most power using the least powerless language. One can also assume that in a courtroom the person with the most power is the judge and therefore, that the judge, whether male or female, will use less politeness than attorneys or witnesses.

The current study was designed to test this expectancy. My hypothesis was that the amount of politeness used by female judges would

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not be substantially higher than or different from that used by male judges because the amount of power held by male and female judges should be fairly equivalent. Contrary to Lakoff's theory, I didn't expect to find female judges using "superpolite" forms of speech and the male judges using "apolite" or impolite forms.

Data Base:

My analysis is based on my own transcription of the tape recordings of a civil case in Beverly Hills (California) Municipal Court. I selectively transcribed about thiry minutes of tape. This transcribed section contained 59 turns by the judge, 85 by the prosecuting attorney, 88 turns by the witness (the plaintiff), and 73 turns by the defense attorney. I used transcripts from observors in other courtrooms, to obtain additional data on male and female judges in order to have comparative data.

Analysis of the Data:

I relied on the system for coding politeness used by Shimanoff, based on the positive and negative politeness strategies developed by Brown and Levinson, as discussed above. I went through the transcripts step-by-step, coding each turn first for whether or not a politeness feature was exhibited, then noting whether positive or negative politeness was used, and finally coding the utterance according to what specific politeness feature was utilized. I then tallied the politeness features used, and converted these to gross totals and percentages.

Results:

The results of the coding from my transcript initially appeared to

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refute O'Barr and Atkin's results and confirm Lakoff's theory that women are more polite. I found that the judge, a female, used a much higher percentage of politeness than either of the attorneys or of the witness, all of whom were male (see Table 3).

Table 3

Person	Sex	#Turns	#Turns w/ Politeness	%Politeness	%Neg. Polite.	%Pos. Polite.
Judge	F	59	17	.29	.62	.38
P.A.	M	85	16	.19	.63	.37
D.A.	M	73	8	.11	1.00	0.00
Witness	M	88	9	.10	.82	.18

According to my hypothesis, the judge should have used the least amount of politeness because she holds the most power in the courtroom. The person with the least power in the courtroom should be the witness, and therefore it should be the witness who uses the most amount of politeness. However, the exact opposite occurred in this particular case. Instead of an inverse relationship between the power and politeness variables (see Figure 1), they appeared to be correlated positively (Figure 2).

Given the surprising nature of these results, I coded two more transcripts for politeness use. Both of these transcripts came from courtrooms in which female judges preside. In the first case (see Table 4) I found results closer to what I had hypothesized. The female judge did not use the most amount of politeness. However, neither did the witness use

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the most amount of politeness, so this still raised doubts about the relationship between power and politeness, at least for courtroom speech. The third transcript provided a similar result; again, the witness used the least amount of politeness, in this case none at all (see Table 5).

FIGURE 1

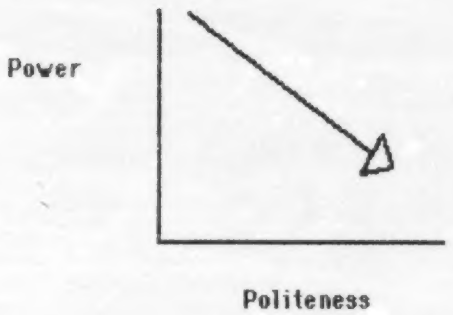
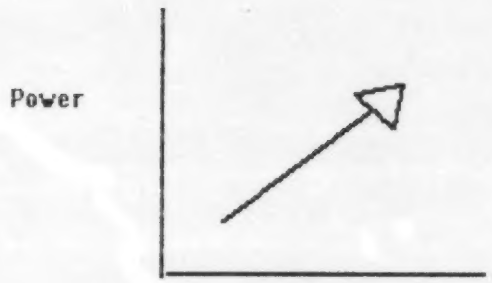


FIGURE 2



The next thing I wanted to do was determine if the relatively high frequency of politeness used by each of the three female judges was in fact linked to the fact that they were female. So I coded the turns of the male

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judges from three additional courtroom transcripts (see Table 6). The

Table 4

Person	Sex	#Turns	#Turns w/ Politeness	%Politeness	%Neg. Polite.	%Pos. Polite.
Judge	F	39	15	.38	.80	.20
D.A.	M	15	7	.47	.89	.11
P.A.	M	26	11	.42	.57	.43
Witness	M	9	1	.11	1.00	0.00

Table 5

Person	Sex	#Turns	#Turns w/ Politeness	%Politeness	%Neg. Polite.	%Pos. Polite.
Judge	F	25	10	.40	.75	.25
D.A.	M	20	10	.50	1.00	0.00
P.A.	M	49	18	.37	.96	.04
Witness	M	26	0	0.00	0.00	0.00

Table 6

Person	Sex	#Turns	#Turns w/ Politeness	%Politeness	%Neg. Polite.	%Pos. Polite.
Judge	M	54	3	.05	.75	.25
Judge	M	25	14	.56	.81	.19
Judge	M	57	19	.33	.71	.29

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speech of the first male judge confirmed Lakoff's theory, to some extent. I found that this judge only used politeness an average of 5% of the time. However, the next male judge scored 56% on politeness use, and the third male judge scored 33%.

Next I ranked all of the judges--male and female--in terms of amount of politeness used. According to this ordering there didn't appear that the sex of the speaker influenced the amount of politeness used (see Table 7).

Table 7

Sex of Judge	%Politeness	%Neg. Politeness	%Pos. Politeness
M	.56	.81	.19
F	.40	.75	.25
F	.38	.80	.20
M	.33	.71	.29
F	.29	.62	.38
M	.05	.75	.25

To get a better idea of the overall picture, I then ranked everyone I had coded--judges, attorneys and witnesses (see Table 8). Ranked in this way it can be seen that it is the males, rather than the females, who used the most politeness.

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Table 8

Person	Sex	%Politeness	%Neg.Politeness	%Pos.Politeness
Judge	M	.56	.81	.19
D.A.	M	.50	1.00	0.00
D.A.	M	.47	.89	.11
P.A.	M	.42	.57	.43
Judge	F	.40	.75	.25
Judge	F	.38	.80	.20
P.A.	M	.37	.96	.04
Judge	M	.33	.71	.29
Judge	F	.29	.62	.38
P.A.	M	.19	.63	.37
D.A.	M	.11	1.00	0.00
Witness	M	.11	1.00	0.00
Witness	M	.10	.82	.18
Judge	M	.05	.75	.25
Witness	M	0.00	0.00	0.00

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Conclusion:

A number of points emerge from these results. One is that O'Barr and Atkins' theory of "women's language" as "powerless language" was not supported in this study. Those holding the most power in the courtroom did not use the least amount of politeness, as one would expect according to the "powerless language" theory. However, in order to posit this hypothesis in the first place, one has to assume that one of the features of "women's language" (or of "powerless language") is the use of "superpolite forms." The failure to confirm my hypothesis may be due to its resting on a faulty assumption. That is, it may not be true that only "women's language" uses "superpolite" forms. In fact it may be that as Brown (1979) contends, the Maxim of Politeness will supercede the other maxims when a conflict in maxims arises, indicating that in the hierarchy of maxims, politeness ranks higher than the other maxims, and this presumably would hold for men as well as for women. As Brown states, "one powerful and pervasive motive for not talking according to the Maxims is the desire to 'be polite,' to give some attention to face" (p. 23).

In other words, politeness appears to be something used by everyone in the courtroom, to a greater or lesser extent. But the use of politeness did not correlate with either sex or status. A question that must be asked is why the judges showed such high rates of politeness. One possibility is that in a way this is a manifestation of the judges' power. They are in charge in the courtroom, and they are the ones directing the activity, so they can choose to speak as they wish. The strong use of politeness may be a desire of the part of the judges to facilitate smooth proceedings in the courtroom. They may in fact be adhering strictly to the Cooperative Principle. Overall, there was a much greater use of negative politeness than of positive

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politeness used by the judges. A judge, in the normal course of his or her duties, has to perform a high number of face-threatening acts (FTA's) and therefore may use much negative politeness to redress the FTA's.

Philips (1981) examined the apparent desire on the part of judges to orchestrate proceedings within the courtroom according to the Cooperative Principle and the Four Maxims. She studied the way in which judges simplified the written versions of the Plea Agreement for defendants who were going to plead guilty, in order to ensure that the defendants understood the rights they were relinquishing. Philips found that although the amount of simplification varied with each judge, all of the judges exhibited a desire that the defendant **understand**; this was considered a fundamental right to which the defendant was entitled.

Although judges use a great deal of politeness in the course of conducting court proceedings, this is not to say that they cannot be direct, go "bald on record" (Brown and Levinson, 1978, pp. 99-100) with their requests, as this example illustrates:

JUDGE: **The objection is sustained - not necessary to have the doctor look=**

P.A.: **Fine**

JUDGE: **=up these charts. ((Irritated)) You look at them - you read them**

This example indicates that judges have the choice of whether or not to use politeness. They are not in a powerless position in which they must

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use politeness in order to get accomplished what they want. In another example the judge exhibited **linguistic** features of politeness, but the transcript indicates that the judge was irritated and expressed this **paralinguistically**:

JUDGE: I don't think it's necessary for this question ((irritation))--let's just ask the **question** Counsel.

Another issue that must be considered is why the witnesses used so few politeness features. One explanation for this is that the speech of the witnesses is controlled very tightly by both their own as well as opposing counsel; very often the witnesses are restricted to yes/no answers or to very limited responses. For example, in the transcript in which out of a total of 26 turns the witness exhibited no politeness, his answers were restricted to utterances of the type: **"That's correct"; "Yes": "That was my impression"; "It depends"; and so on.** The same is true for the witness who used politeness features in only one utterance out of nine turns: **"I have it"; "Thee: uh eight"; "Thirteenth"; "Yes"; etc.** And even when the witness is allowed to answer in more of a narrative form, his or her speech still consists of factual presentation of material. The answer of this witness is a good example:

MR. P.: One check for three thousand seven hundred and fifty, Mister Wilson subsequently (.4) de-deposited twelve hundred and fifty separately, he was not present on the day ((unintelligible))

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Another implication of this study is it cannot be said that female judges use more "superpolite" forms; it cannot be said that male judges do either. A male judge used the most politeness; it was another male judge who used the least amount of politeness. The scores of the other male and female judges were arranged along a continuum; neither sex emerged as using more politeness than the other. Here, then, is another instance in which supposed sex differences in language were not validated by empirical research. This provides further rationale for the importance of considering variables other than sex in our study of sex differences in communication.

In the cases in which differentiation is not found, as in this study of the courtroom environment, we need to relate these results to the underlying situational structure. As our research focus shifts from description to explanation, from merely documenting sex differences to uncovering **why** these differences exist and in what situations and contexts, the contribution of sex differences research to the study of human communication can only increase in value.

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